

FONG & WONG, P. C.

ATTORNEYS AT LAW

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*ADMITTED TO NEW YORK & NEW JERSEY

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/11/2020

March 11, 2020

VIA ECF

Application for an order compelling attendance is DENIED.
Defendants may seek sanctions under Federal Rule of Civil
Procedure 37(d)(1)(A)(i) if Plaintiffs "fai[l], after
being served with proper notice, to appear for [their]
deposition[s]."

Hon. Lewis J. Liman, District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 15C
New York, New York 10007

Re: Motion for Order Directing Plaintiffs to Appear for Depositions
Huang et. al. v. Shanghai City Corp. et.al., 19-cv-07702

Honorable Judge Liman:

Date: 3/11/2020



LEWIS J. LIMAN
United States District Judge

I represent Defendants in this FLSA / NYLL action and I write the instant letter motion for an order directing Plaintiffs Huer Huang and Hui Zhen Huang to attend their depositions as previously noticed and scheduled on March 12, 2020 at 10:00 AM and 1:00 PM respectively. Defendants further request an order directing all parties to attend their depositions as noticed and scheduled as set forth below. The fact discovery end date is April 15, 2020 (Docs 61 and 68) and depositions have been noticed for all 10 named Plaintiffs and approximately 12 Defendants.

On February 12, 2020, I emailed Plaintiffs' counsel and suggested 30 alternative dates from February 19 to April 7, 2020 to conduct Plaintiffs' depositions. Having received no response from Mr. Troy's office to my email, on February 18, 2020 Defendants served deposition notices scheduling Plaintiffs' depositions on the dates and at the times, as follows:

Huer Huang on March 12, 2020 at 10:00 AM,
Hui Zhen Huang on March 12, 2020 at 1:00 PM,
Lianqin Lu on March 17, 2020 at 10:00 AM,
Juan Li on March 17, 2020 at 1:00 PM,
Hai Hua Zhai on March 18, 2020 at 10:00 AM,
Gloria Perez Mendez on March 18, 2020 at 1:00 PM,
Clara Flores on March 19, 2020 at 10:00 AM,
Reyes Perez Guerrero on March 20, 2020 at 10:00 AM,
Aragon Cardoso Cruz on March 31, 2020 at 10:00 AM, and
Maximino Raymundo on April 1, 2020 at 10:00 AM.

On March 5, 2020, I emailed Mr. Troy's office and all counsel and advised counsel that I plan to take the depositions of Plaintiffs on the dates previously noticed and scheduled. All Plaintiffs depositions are noticed to take place at our office. I requested Mr. Troy to advise us of the language / dialect requirements for any interpreter for Plaintiffs. Mr. Troy's office did not respond to my email. In the same email, I confirmed corporate representatives, interpreter requirements and deposition dates and times of corporate and individual Defendants previously noticed and scheduled by Plaintiffs' counsel to take place at the Troy Law Office, as follows:

Shanghai City Corp. by Kiu Sang Si a/k/a Joe Si: Monday, March 23, 2020 at 09:00 AM, Cantonese;
Shanghai Duplicate Corp. by Kiu Sang Si a/k/a Joe Si: Monday, March 23, 2020 at 12:00 Noon, Cantonese;
East Brother Corp. by Tun Yee Lam a/k/a Peter Lam: Monday, March 23, 2020 at 02:00 PM, Cantonese;
Shanghai Original Inc. by Tun Yee Lam a/k/a Peter Lam: Monday, March 23, 2020 at 04:00 PM, Cantonese;
Kiu Sang Si a/k/a Joseph Si a/k/a Joe Si: Tuesday, March 24, 2020 at 09:00 AM, Cantonese;
Yiu Fai Fong: Tuesday, March 24, 2020 at 10:00 AM, Cantonese;
Tun Yee Lam a/k/a Peter Lam: Tuesday, March 24, 2020 at 11:00 AM, Cantonese;
Gui Bing Shi: Tuesday, March 24, 2020 at 12:00 PM, Mandarin; and
John Zhang: Tuesday, March 24, 2020 at 02:00 PM, Mandarin;

I advised Plaintiffs' counsel that I am unable to confirm the depositions of Defendant William Ko who is no longer working for Shanghai City Corp. and Terry Ho who is no longer working for Shanghai Duplicate Corp. The Ko and Ho depositions also are noticed for March 24. I pointed out that Mr. Troy noticed both Terry Ho and Mimi Neng on March 24, 2020 at 3:00 PM – and requested that his office clarify that conflict. Mr. Troy's office did not respond to my March 5 email.

On March 10, 2020, I emailed Mr. Troy's office and all counsel to confirm the depositions of Huer Huang and Hui Zhen Huang on March 12 and advise that we have retained the reporter and Cantonese / Mandarin interpreter. Mr. Troy responded by email stating that Plaintiffs are "not available" for the deposition and that his office has a "scheduling conflict due to trial scheduled in another matter". I replied to Mr. Troy stating that the depositions have been scheduled weeks in advance and inquired as to why Huer Huang and Hui Zhen Huang are not available this Thursday. Aaron Schweitzer of Mr. Troy's office then responded that his office had a "scheduling conflict" and that he "would need time to confer with our clients".

On March 11, 2020 I conferred with Aaron Schweitzer by telephone in good faith attempt to resolve the matter of Plaintiffs' depositions. Again I asked counsel why his clients are not available Thursday and why he could not have an attorney cover the depositions on Thursday. Mr. Schweitzer offered no reason for his clients' unavailability and said he had a scheduling conflict and would call me back regarding getting an attorney to cover the depositions Thursday.

As of this time, Plaintiffs' counsel has not gotten back to me following our telephone conversation.

Our office and our clients have scheduled these depositions around other pressing matters and obligations, keeping in mind the April 15 discovery end date. We respectfully request an order directing Plaintiffs Huer Huang and Hui Zhen Huang to attend their depositions as previously noticed and scheduled on March 12, 2020 at 10:00 AM and 1:00 PM respectively – and directing all parties to attend their depositions as noticed and scheduled as set forth above. Copies of emails exchanged among counsel as referred to above are attached hereto.

We thank the Court for its consideration and attention to this matter.

Sincerely,
Fong & Wong, PC

/s/ David B. Horowitz

By: David B. Horowitz, Esq. (1890)
Attorneys for Defendants
SHANGHAI CITY CORP. d/b/a Joe's Shanghai,
SHANGHAI DUPLICATE CORP. d/b/a Joe's Shanghai,
EAST BROTHER CORP. d/b/a Joe's Shanghai,
SHANGHAI ORIGINAL, INC. d/b/a Joe's Shanghai,
KIU SANG SI a/k/a Joseph Si a/k/a Joe Si,
YIU FAI FONG, TUN YEE LAM a/k/a Peter Lam
GUI BING SHI, WILLIAM KO, YUN CAI, JOHN ZHANG and
TERRY HO
254 Canal Street, Suite 2002
New York, New York 10013
(212) 966-6668
Fax: (212) 334-6759
Email: rww@fwatty.com
dh@fwatty.com

cc: All Counsel of Record (via ECF)



David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702

David Horowitz <dh@fwatty.com>

Wed, Feb 12, 2020 at 6:03 PM

To: Troy Law <troylaw@troypllc.com>, Lynn Judell <ljudell@ssrga.com>

Cc: Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>, David Horowitz <dh@fwatty.com>

Mr. Troy, Aaron, Lea, Lynn,

Pursuant to Judge Liman's Scheduling Order dated February 5, 2020 (Doc 68), I am available to conduct depositions of the Plaintiffs Huer Huang, Lianqin Lu, Gloria Perez Mendez, Clara Flores, Reyes Perez Guerrero, Aragon Cardoso Cruz, Maximino Raymundo, Hui Zhen Huang, Juan Li and Hai Hua Zhai on the following dates: **February 19, 20, 24, 25, 26, 27, 28, March 4, 5, 6, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30, 31, April 1, 2, 3, 6 and 7, 2020.** I anticipate half-day each for Huer Huang, Lianqin Lu, Hui Zhen Huang, Juan Li and Hai Hua Zhai since they previously were deposed in the Jin case. The other five - Gloria Perez Mendez, Clara Flores, Reyes Perez Guerrero, Aragon Cardoso Cruz and Maximino Raymundo – will require full day each. **All Plaintiffs to be deposed at this office starting at 10am.** Please confirm the date of each Plaintiff's deposition and his/her language / dialect by this Friday.

Thank you,

David

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David B. Horowitz, Esq.

Fong & Wong, P.C.

254 Canal Street, Suite 2002

New York, NY 10013

T: (212) 966-6668

F: (212) 334-6759

WIRING OF FUNDS. Please note that this office will NEVER ask you, via email, to wire funds for your closing without discussing it with you. If you receive an email request to wire funds/proceeds – EVEN IF WE HAVE DISCUSSED IT PREVIOUSLY - please call this office immediately to verify the request.

DISCLOSURE OF WIRE FRAUD RISKS. Criminals/ hackers are targeting email accounts of various parties involved in real estate transactions, (ex, lawyers, title agents, mortgage brokers, real estate agents, etc.). Among other concerns this has led to fraudulent wire instructions being used to divert funds to criminal's bank accounts. These emails may look like legitimate emails from the proper party. Prior to wiring any funds to this firm, personally call and verify the account information with us, (confirm ABA #, account #, account name, bank address,). When verifying information, only speak to a person with whom you know.

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David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702

David Horowitz <dh@fwatty.com>

Tue, Feb 18, 2020 at 9:47 PM

To: Troy Law <troylaw@troyllc.com>, Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>

Cc: Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>, David Horowitz <dh@fwatty.com>

Mr. Troy, Aaron,

On February 12, 2020 I suggested alternative dates for the depositions of the Plaintiffs and requested that you confirm the deposition dates by February 14. Since I did not hear back from you, I am attaching Notices of Deposition scheduling Plaintiffs' depositions on the dates and at the times, as follows:

Huer Huang on March 12, 2020 at 10:00 AM,

Hui Zhen Huang on March 12, 2020 at 1:00 PM,

Lianqin Lu on March 17, 2020 at 10:00 AM,

Juan Li on March 17, 2020 at 1:00 PM,

Hai Hua Zhai on March 18, 2020 at 10:00 AM,

Gloria Perez Mendez on March 18, 2020 at 1:00 PM,

Clara Flores on March 19, 2020 at 10:00 AM,

Reyes Perez Guerrero on March 20, 2020 at 10:00 AM,

Aragon Cardoso Cruz on March 31, 2020 at 10:00 AM, and

Maximino Raymundo on April 1, 2020 at 10:00 AM.

All Plaintiffs to be deposed at this office. Please advise if each Plaintiff will require an interpreter and his/her language / dialect.

Thank you,

David

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10 attachments

EBT notice to HUER HUANG - 02182020.docx
25K

EBT notice to HUI ZHEN HUANG - 02182020.docx
25K

EBT notice to LIANQIN LU - 02182020.docx
26K

EBT notice to JUAN LI - 02182020.docx
26K

EBT notice to HAI HUA ZHAI - 02182020.docx
25K

EBT notice to GLORIA PEREZ MENDEZ - 02182020.docx
25K

EBT notice to CLARA FLORES - 02182020.docx
24K

EBT notice to REYES PEREZ GUERRERO - 02182020.docx
25K

EBT notice to ARAGON CARDOSO CRUZ - 02182020.docx

25K

 **EBT notice to MAXIMINO RAYMUNDO - 02182020.docx**
25K



David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702

David Horowitz <dh@fwatty.com>

Thu, Mar 5, 2020 at 4:31 PM

To: Troy Law <troylaw@troypllc.com>, Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>
Cc: Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>, David Horowitz <dh@fwatty.com>

Mr. Troy, Aaron, Lea, Lynn, Xue,

Pursuant to the Court's Scheduling Orders, our prior emails and deposition notices, I plan to take the depositions of Plaintiffs as follows:

Huer Huang, Thursday, March 12, 2020 at 10:00 AM,

Hui Zhen Huang, Thursday, March 12, 2020 at 1:00 PM.

Lianqin Lu, Tuesday, March 17, 2020 at 10:00 AM,

Juan Li, Tuesday, March 17, 2020 at 1:00 PM,

Hai Hua Zhai, Wednesday, March 18, 2020 at 10:00 AM,

Gloria Perez Mendez, Wednesday, March 18, 2020 at 1:00 PM,

Clara Flores, Thursday, March 19, 2020 at 10:00 AM,

Reyes Perez Guerrero, Friday, March 20, 2020 at 10:00 AM,

Aragon Cardoso Cruz, Tuesday, March 31, 2020 at 10:00 AM, and

Maximino Raymundo, Wednesday, April 1, 2020 at 10:00 AM.

Plaintiffs' depositions will be held at our office – Fong and Wong, PC, 254 Canal Street, Suite 2002, New York, New York 10013. Mr. Troy, please advise by tomorrow if Plaintiffs Huer Huang and Hui Zhen Huang will require an interpreter and his/her language / dialect.

Pursuant to the deposition notices served by Mr. Troy's office, I am confirming the corporate representatives, interpreter requirements and depositions of corporate and individual Defendants represented by our office, as follows:

Shanghai City Corp. by Kiu Sang Si a/k/a Joe Si: Monday, March 23, 2020 at 09:00 AM, Cantonese;

Shanghai Duplicate Corp. by Kiu Sang Si a/k/a Joe Si: Monday, March 23, 2020 at 12:00 Noon, Cantonese;

East Brother Corp. by Tun Yee Lam a/k/a Peter Lam: Monday, March 23, 2020 at 02:00 PM, Cantonese;

Shanghai Original Inc. by Tun Yee Lam a/k/a Peter Lam: Monday, March 23, 2020 at 04:00 PM, Cantonese;

Kiu Sang Si a/k/a Joseph Si a/k/a Joe Si: Tuesday, March 24, 2020 at 09:00 AM, Cantonese;

Yiu Fai Fong: Tuesday, March 24, 2020 at 10:00 AM, Cantonese;

Tun Yee Lam a/k/a Peter Lam: Tuesday, March 24, 2020 at 11:00 AM, Cantonese;

Gui Bing Shi: Tuesday, March 24, 2020 at 12:00 PM, Mandarin; and

John Zhang: Tuesday, March 24, 2020 at 02:00 PM, Mandarin;

Defendants' depositions to be held at Troy Law Office. Mr. Troy, I trust that you will complete the depositions of Kiu Sang Si a/k/a Joe Si and Tun Yee Lam a/k/a Peter Lam, in their representative and individual capacities on March 23 and that it will not be necessary for Mr. Si and Mr. Lam to return on March 24. Please confirm.

As of this date, I am unable to confirm the depositions of William Ko who is no longer working for Shanghai City Corp. and Terry Ho who is no longer working for Shanghai Duplicate Corp. I will update you as soon as I have additional information. I note that Mr. Troy noticed both Terry Ho and Mimi Neng on March 24, 2020 at 3:00 PM. This apparent conflict may need to be straightened out.

Thank you for your cooperation,

David

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David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702**David Horowitz <dh@fwatty.com>**

Tue, Mar 10, 2020 at 7:12 PM

To: Troy Law <troylaw@troypllc.com>, Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>

Cc: Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>, David Horowitz <dh@fwatty.com>

Mr. Troy, Aaron, Lea, Lynn, Xue,

Pursuant to the Court's Scheduling Orders, our prior emails and deposition notices, I am reconfirming the depositions of Plaintiffs Huer Huang and Hui Zhen Huang this Thursday at our office, as follows:

Huer Huang: Thursday, March 12, 2020 at 10:00 AM,**Hui Zhen Huang: Thursday, March 12, 2020 at 1:00 PM.**

I have ordered the reporter and Cantonese / Mandarin interpreter.

Thank you,

David

[Quoted text hidden]



David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702

Troy Law <troylaw@troypllc.com>
To: David Horowitz <dh@fwatty.com>
Cc: Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>, Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>

Tue, Mar 10, 2020 at 7:21 PM

Dear Counselor,

Plaintiffs are not available for the deposition on those dates.

Additionally, our office has a scheduling conflict due to trial scheduled in another matter.

Please allow us time until next week to be able to give you firm dates on the deposition of Plaintiffs.

Thanks,
Regards

John Troy
/pk

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Attorneys & Counselors at Law
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Taipei: 11F, No. 372, Linsen N. Rd., Taipei City 10446, Taiwan Tele: +886-2-2571-2572

蔡鴻章律師事務所

*Our firm does not accept paper or fax correspondence, including service and production of documents, which must be sent by e-mail
*We do not keep originals or copies of clients, clients shall retain all their own

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David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702**David Horowitz** <dh@fwatty.com>

Tue, Mar 10, 2020 at 8:04 PM

To: Troy Law <troylaw@troypllc.com>

Cc: Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>, Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>, dh@fwatty.com

Mr. Troy,

These depositions have been scheduled weeks in advance. We already have multiple depositions scheduled on 4 days next week. Please explain why Huer Huang and Hui Zhen Huang are not available this Thursday. Your trial scheduled in another matter is no reason to cancel 2 days before these depositions.

Thank you,

David

Sent from my iPhone

[Quoted text hidden]



David Horowitz <dh@fwatty.com>

Huer Huang et al v. Shanghai City Corp.: SDNY: 19-cv- 07702

Troy Law <troylaw@troypllc.com>
To: David Horowitz <dh@fwatty.com>
Cc: Lynn Judell <ljudell@ssrga.com>, Xue Huang <xhuang@hcwlawgroup.com>, Ping Chan <pchan@fwatty.com>, Robert Wong <rww@fwatty.com>

Tue, Mar 10, 2020 at 9:36 PM

Dear Counselor,

As stated, we have a scheduling conflict due to the required appearance to be made before the Court for March 12, 2020. Additionally, the undersigned office did not confirm the deposition date with you for March 12, 2020 nor had confirmed on the interpreter if you look at our emails.

We would need time to confer with our clients given the amount of Plaintiffs involved in this case.

As such please allow our office to contact the Plaintiffs to propose the Dates that are convenient for both our clients and Your office for the deposition.

Thanks,
Regards

Aaron
/pk

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Attorneys & Counselors at Law
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Taipei: 11F, No. 372, Linsen N. Rd., Taipei City 10446, Taiwan Tele: +886-2-2571-2572

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production of documents, which must be sent by e-mail
We do not keep originals or copies of clients, clients shall retain all their own

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